
UNITED STATES DISTRICT COURT**EASTERN DISTRICT OF TEXAS**

NESTOR RUIZ, JR.,

Plaintiff,

*versus*BUREAU OF PRISONS, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:06-CV-603

**MEMORANDUM ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Nestor Ruiz, Jr., an inmate confined within the Bureau of Prisons, proceeding *pro se*, filed this civil rights lawsuit pursuant to *Bivens v. Six Unknown Agents of the Federal Bureau of Narcotics*, 403 U.S. 368 (1971).

The court referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge concerning this matter. The magistrate judge recommends this lawsuit be dismissed for failure to state a claim upon which relief may be granted.

The court has received the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED.R.CIV.P. 72(b). After careful consideration, the court concludes the objections are without merit. Plaintiff's allegations do not demonstrate the defendants ignored his

complaints and, at most, demonstrate that the defendants may have been negligent. His allegations fail to demonstrate they acted with deliberate indifference to his serious medical needs, the state of mind that is necessary to support a claim that the Eighth Amendment has been violated. *Gobert v. Caldwell*, 463 F.3d 339 (5th Cir. 2006); *Burleson v. Texas Department of Criminal Justice*, 393 F.3d 577, 589 (5th Cir. 2004); *Paz v. Weir*, 137 F.Supp.2d 782, 806 (S.D. Tex. 2001).

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED at Beaumont, Texas, this 30th day of November, 2009.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE